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May 19, 2014

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Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th St. SW
Washington DC 20554

RE: **Update of the BalsamWest FiberNET, LLC System Security and Integrity Plan; EB
Docket No. 04-295**

Dear Ms. Dortch:

Pursuant to 47 CFR 47 C.F.R. § 1.20005, please find an original and five copies of the updated System Security and Integrity ("SSI") Plan of BalsamWest Fiber NET, LLC ("BalsamWest"). This SSI Plan, originally dated September 10, 2010, is being updated to reflect a change in the contact information for the SSI Representative and Trusted Third Party contacts. Please date-stamp and return the extra copy of the SSI Plan in the self-addressed envelope provided for that purpose.

Please do not hesitate to contact me if you have any questions at 828-339-2934.

Sincerely,


Linda Honeycutt

Contract Management

Attachments

CC: David Ward
Senior Attorney, Policy Division
Public Safety and Homeland Security Board
445 12th Street, S.W.
Washington, DC 20554

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BALSAMWEST FIBERNET, LLC

**SYSTEM SECURITY AND INTEGRITY PLAN
&
POLICIES AND PROCEDURES FOR CALEA COMPLIANCE**

February 4, 2014

BALSAMWEST FIBERNET, LLC SSI PLAN

I. INTRODUCTION

The policies and procedures outlined herein ("SSI Plan") have been adopted to govern BalsamWest FiberNET, LLC's ("BalsamWest" or "Company") compliance with lawful requests for electronic surveillance in conformity with the Communications Assistance for Law Enforcement Act ("CALEA") as implemented by Part 1, Subpart Z of the Commission's rules, 47 C.F.R. Part 1, Subpart Z.

The Company SSI Plan shall be filed with the Federal Communications Commission ("FCC" or "Commission") prior to launch of BalsamWest local and long distance voice and internet access offerings and must be re-filed within 90 days of a merger or divestiture or any amendment (including change of contact personnel) of these policies and procedures.

The policies and procedures adopted by the Company and incorporated here must be followed by Company employees, its agents and contractors. All law enforcement requests, written or oral, must be referred to the SSI Representative identified in Appendix A, or its designee, who is responsible to ensure that any interception of communications or access to call-identifying information is activated only in accordance with a court order or other lawful authorization and with the intervention and authorization of the SSI Representative.

The policies and procedures outlined here are consistent with CALEA, the federal laws of the United States and specific requirements of the FCC. Among other things, these policies and procedures identify the senior officer(s), employees and Trusted Third Party (TTP) agents or contractors who are responsible for implementing and maintaining the procedures.

II. OVERVIEW

It is the policy of BalsamWest to comply with the letter and spirit of all applicable United States electronic surveillance statutes and regulations, including CALEA as well as the laws of each state in which the Company operates governing the circumstances and procedures under which law enforcement electronic surveillance and communication interception is permitted by current law. CALEA requires BalsamWest to have in place security measures that will:

- (a) ensure that any interception of communications or access to call-identifying information effected within its switching premises can be activated only in accordance with appropriate legal authorization, appropriate authorization by BalsamWest, and with the affirmative intervention of an individual officer or employee of BalsamWest acting in accordance with regulations prescribed by the Commission;
- (b) implement the assistance capability requirements of CALEA section 103, 47 U.S.C. § 1002, to ensure law enforcement access to authorized wire and electronic communications or call-identifying information; and
- (c) establish requirements for informing the appropriate law enforcement officials of acts of unauthorized electronic surveillance that may occur on BalsamWest premises, as well as other compromises of BalsamWest's systems security and integrity procedures that involve electronic surveillance.

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Any questions about how to comply with the policies and procedures in this System Security and Integrity Plan ("SSI Plan") should be referred to the employee appointed by BalsamWest to oversee the provision of technical assistance and compliance. Contact information for this individual is Appendix A, attached hereto.

III. SCOPE

These policies and procedures apply to all officers, employees, contractors and agents of BalsamWest. Any BalsamWest officer, employee, contractor or agent that receives a request from a law enforcement agency or anyone else for any form of electronic surveillance must follow these procedures exactly. Failure to adhere to the procedures set forth herein may result in disciplinary action, up to and including termination of employment.

A set of these policies and procedures shall be maintained at all switching centers of BalsamWest and its general office located at 52 Colonial Square, Sylva, NC 28779. All employees with responsibilities relating to electronic surveillance are directed to make themselves familiar with these policies and procedures to ensure that BalsamWest employees take only those actions authorized or required by law.

IV. DEFINITIONS

The definitions included in this sub-section shall be used solely for the purpose of implementing CALEA requirements.

(a) Appropriate legal authorization. The term appropriate legal authorization means: (1) a court order signed by a judge or magistrate authorizing or approving interception of wire or electronic communications; or (2) other authorization, pursuant to 18 U.S.C. 2518(7), or any other relevant federal or state statute, such as the Electronic Communications Act (18 U.S.C. §2510 *et seq.*), federal trap and trace statutes (18 U.S.C. §3121 *et seq.*), or the Foreign Intelligence Surveillance Act ("FISA") (50 U.S.C. §1801 *et seq.*). Appropriate legal authorization also includes:

- **Exigent/Emergency Circumstances.** Under section 2518(7) of title 18 of the U.S. Code, an investigative or law enforcement officer that has been specially designated by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the principal prosecuting attorney of any State, who reasonably determines that an emergency situation exists involving (1) immediate danger of death or serious physical injury to any person, (2) conspiratorial activities threatening national security, or (3) conspiratorial activities characteristic of organized crime, may intercept a communication before obtaining an order authorizing the interception if there are grounds upon which an order could be entered and an application for an order is made within 48 hours after the interception begins.¹ Under these exigent circumstances, authority from a specially designated investigative or law enforcement officer, such as in the form of a certification, constitutes an appropriate legal authorization.

¹ 18 U.S.C. §2518(7).

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- Appropriate Legal Authorization also includes law enforcement requests relating to *National Security Investigations*, pursuant to FISA. Under title 50 of the U.S. Code, an investigative or law enforcement officer may make a request similar to that made under criminal statutes (such as requests for trap and trace, pen registers, interceptions, customer records, "roving" orders). Documentation, such as completing and filing of the form as part of this SSI Plan, as well as the preservation of any related documentation (such as the court order or warrant) may differ in the context of complying with a law enforcement request made under FISA. Federal regulations require classified information to be stored in a government-approved secure facility. If the Company does not have such facility, the LEA will typically show the FISA order to the Company and then give the Company a trust receipt and law enforcement will retain the classified order. Only the trust receipt and information approved by government may be reflected in any record-keeping effort of the Company.

(b) Appropriate carrier authorization. The term appropriate carrier authorization means the policies and procedures adopted by BalsamWest to supervise and control BalsamWest officers and employees authorized to assist law enforcement in conducting any interception of communications or access to call-identifying information. Compliance with these policies and procedures includes, but is not limited to:

- Verification of appropriate legal authorization
- Checking that the legal authorization is what it purports to be
- Verification that the request is described in sufficient detail such that it can be technically implemented

(c) Appropriate authorization. The term appropriate authorization means both appropriate legal authorization and appropriate carrier authorization.

(d) LEA. The term LEA means Law Enforcement Agency; e.g., the Federal Bureau of Investigation or a local police department.

(e) Trusted Third Party ("TTP"). The TTP means a contracted party, as identified in Appendix A as the TTP, to act on behalf of the Company in providing a complete compliance solution for the interception, administration and secure delivery process to meet standards of CALEA.

V. POLICIES AND PROCEDURES FOR EMPLOYEE SUPERVISION AND CONTROL

Any employee who receives a request for any form of electronic surveillance, whether from a law enforcement official or from any other person, should immediately direct the requesting party to the SSI Representative as identified in Appendix A, attached hereto and who has been designated by BalsamWest as the authorized person to accept these requests and act on them.

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The SSI Representative, or such employee or TTP designated by the SSI Representative, is specifically charged with the responsibility to assist law enforcement in conducting any interception of communications or providing access to call-identifying information. The SSI Representative's name, title, and contact information, along with a description of the duties of the SSI Representative, is included in Appendix A, attached hereto. As an alternate, the BalsamWest TTP company name and contact information and a secondary employee contact is included in Appendix A. In the event that the SSI Representative, or alternate contacts, are not available, all requests must be immediately directed the most senior management BalsamWest employee available.

The SSI Representative designated to act on these types of requests will assume total responsibility for any request from receipt of the request to its final disposition, including the proper certification and storage of all details regarding the request. The specific responsibilities include but are not limited to:

- Serving as the point of contact for law enforcement, or designating such point of contact, concerning a court-ordered surveillance request twenty-four hours a day, seven days a week;
- Ensuring that all requests are made with appropriate legal authorization, as defined herein;
- Ensuring that all employees of BalsamWest receive appropriate legal authorization and appropriate carrier authorization, as defined herein, before enabling law enforcement officials and BalsamWest personnel, or its designated TTP, to implement the interception of communications or access to call-identifying information;
- Determining whether the electronic surveillance can be implemented. When BalsamWest is a reseller of services to the end user, BalsamWest will be unable to implement the electronic surveillance and will inform the appropriate LEA of the name of the underlying carrier; and
- Implementing the request by, among other things, initiating (or causing to be initiated) the request for interception or access to call-identifying information, instructing those performing the various tasks involved, and ensuring compliance with all applicable rules and regulations.

VI. MAINTAINING ACCURATE AND SECURE RECORDS

Information regarding each interception of communications, whether properly authorized or not, will be documented on an approved certification form contemporaneously with, or within a reasonable time after, the initiation of the interception. Such certification will include the following:

- The name of the requesting law enforcement officer, together with his or her agency and department, and a copy of the court order or equivalent authorization;

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or, in the case of an unauthorized interception, all available documentation detailing the request;

- Information regarding the surveillance request, including the date and time it was presented, the date and time of implementation, the type of interception or call-identifying information requested (*e.g.*, pen register, trap and trace, Title III, or FISA), the target's name and telephone number or circuit identification, and the duration of the interception; and
- The actions taken to obtain this information, and the name, signature, and title of the SSI Representative, or such individual designated by the SSI Representative, authorizing and overseeing the action requested in the court order or unauthorized request.

After review of the certification form and associated documents, the SSI Representative, or the designee, will sign and date the record and ensure that it is maintained at BalsamWest's general office located at 52 Colonial Square, Sylva, NC 28779, in a secure area, for a period of two years.

VII. UNAUTHORIZED USE OF SURVEILLANCE CAPABILITIES

Any BalsamWest employee who knowingly misuses intercept capabilities intended for lawful surveillance will face disciplinary measures, up to and including dismissal. Information regarding any attempt to interfere with a lawful request for surveillance and any incidents of unauthorized electronic surveillance will be reported to local law enforcement.

If any officer, employee, contractor or agent becomes aware of any acts of unauthorized electronic surveillance on BalsamWest's premises or any compromise or violation of a lawful interception or these policies and procedures herein, the individual should report the violation to BalsamWest's SSI Representative immediately. Information of the violation shall promptly be documented and a copy of the documentation forwarded by the SSI Representative to the appropriate LEA.

VIII. REIMBURSEMENT FOR COSTS

In general, the Company is entitled to request and receive reimbursement for costs associated with complying with requests made by warrant, court order, and subpoena. Such costs include those reasonably necessary and directly incurred in searching for, assembling, reproducing, or otherwise providing requested documents or information.² Costs may specifically include the incremental hourly cost of any employee who assisted in complying with the law enforcement request, including paralegals, engineers, or lawyers involved in the search and production; in addition to salary, overhead items may be included, such as express mail expenses.

² 18 U.S.C. § 2706.

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It is the Company's policy, unless otherwise directed by the SSI Representative, to request reimbursement for reasonable costs associated with compliance with a law enforcement request. Such reimbursement request shall be made as soon as practicable, and should be reported to law enforcement in advance if the cost may be substantial. To facilitate the request for reimbursement, it is the Company's policy to record all employee time spent on responding to requests, as well as all related expenses, and upon completion of gathering responsive material, submit the expense report(s) to the SSI Representative.

In situations indicating a substantial burden or cost that maybe associated with the law enforcement request, it is the Company's policy to communicate the Company's concerns with the law enforcement agency serving the request. The Company SSI Representative should endeavor to negotiate the scope of the request by limiting it a manner that might be reasonable to the Company and still affording law enforcement information and data it may require (he/she should feel free to suggest alternative means to the government if, for example, certain information might be obtained another, easier way). In the end, it is the Company's policy to comply with the lawful request, whether or not burdensome.

The manner in which BalsamWest should request reimbursement from the law enforcement agency will vary depending upon the federal or state agency involved. In each instance, it is the Company's policy to request from the law enforcement agency with whom the response was directed and further coordinate how a reimbursement request may be submitted, as well as what information and documentation is required to make the reimbursement request. It is not the Company's policy to supply the certification kept internally at the Company relating to the law enforcement request. Consistent with the procedures identified by the law enforcement agency, the BalsamWest SSI Representative shall issue a separate letter or email from the Company requesting reimbursement from the law enforcement agency, along with appropriate expense documentation, and a copy of the warrant, subpoena, or court order.

IX. SUBMISSION OF POLICIES AND PROCEDURES FOR COMMISSION REVIEW

These policies and procedures will remain in effect until notice is provided to the Commission regarding a significant change.

Signed this 19th day of May, 2014,



Terri S. McElroy
Chief Executive Officer

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Appendix A

Contact Information

System Security and Integrity (SSI) Representative

The following senior officer and employee is familiar with the federal and state statutory requirements referenced below and is designated as a point of contact responsible to be available and affirmatively intervene to ensure that the interception of communications or access to call-identifying information can be activated only in accordance with appropriate legal and BalsamWest authorization

Name: Terri S. McElroy

Title: Chief Executive Officer/Chief Financial Officer and SSI Representative

Job Description: In addition to her duties as the SSI Representative described in the attached SSI Plan, Ms. McElroy serves as the Chief Executive Officer and the Chief Financial Officer for BalsamWest.

Contact Information

Phone: 828-339-2958

Cell: 704-770-8408

Fax to which legal authorization should be sent: 828-586-6615

Contact Personnel Available 24 Hours a Day, Seven Days A Week:

In the event that the above listed SSI Representative cannot be reached, the alternate contacts are:

1. TRUSTED THIRD PARTY: Apogee Telecom, Inc.

Primary Contact Name: Bob Foster

Cell: (512) 550-2799

Email: bfoster@apogee.us

Secondary or Escalation Contact Name: Chuck Brady

Cell: 512-844-9305

Email: cbrady@apogee.us

2. BalsamWest Chief Technology Officer and Vice President of Network Operations

Jim Campbell

Phone: 828-339-2943

Cell: 828-421-1650